

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DANIEL HORACEK,

Plaintiff,

vs.

DERRICK WILSON, *et. al.*,

Defendants.

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Case No. 07-13822

Avern Cohn

United States District Judge

Michael Hluchaniuk

United States Magistrate Judge

**ORDER DENYING, IN PART, AND GRANTING,  
IN PART, PLAINTIFF'S MOTION TO COMPEL  
PRODUCTION OF DEPOSITION TRANSCRIPT**

Plaintiff recently filed a motion to compel defendants to give him a copy of his own deposition transcript, claiming that he cannot pay for a copy of the transcript. (Dkt. 53). Defendants objected, stating that the Court has ordered that all fees and costs associated with this lawsuit are waived. (Dkt. 56). Defendants also pointed out that plaintiff was released from prison on July 10, 2008.<sup>1</sup> *Id.* Pursuant to *In re Prison Litigation Reform Act*, 105 F.3d 1131, 1139 (6th Cir. 1997), the Court issued an order requiring plaintiff to establish his continued

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<sup>1</sup> See, <http://www.state.mi.us/mdoc/asp/otis2profile.asp?mdocNumber=218347> (Michigan Department of Corrections' Offender Tracking website, as viewed August 28, 2008, stating that plaintiff was paroled on July 10, 2008.).

eligibility for *in forma pauperis* status, which he had been previously granted. (Dkt. 61, 4). Plaintiff was also ordered to contact the Court Reporting Service regarding the cost of his transcript and inform the Court of the cost of the transcript, so that the Court could evaluate the merits of his motion to compel. *Id.* Plaintiff filed a response to the show cause order on September 3, 2008, along with a new *in forma pauperis* application. (Dkt. 63, 64). Plaintiff did not, however, provide any information regarding the cost of obtaining a copy of his deposition transcript from the Court Reporting Service. *Id.*

Based on plaintiff's response to the show cause order, the Court **DENIES**, in part, the motion to compel defendants to produce a copy of the deposition transcript, at this time. The Court **GRANTS**, in part, plaintiff's motion to compel only to the extent that if defendants utilize any portion of plaintiff's deposition transcript in conjunction with any dispositive or other motion filed in this matter, they must provide plaintiff with a complete copy of his deposition transcript.

**IT IS ORDERED.**

The parties to this action may object to and seek review of this Order, but are required to file any objections within 10 days of service of a copy hereof as provided for in 28 U.S.C. § 636(b)(1) and Local Rule 72.1(d)(2). A party may not thereafter assign as error any defect in this Order to which timely objection was not

made. Fed.R.Civ.P. 72(a). Any objections are required to specify the part of the Order to which the party objects and state the basis of the objection. Pursuant to Local Rule 72.1(d)(2), any objections must be served on this Magistrate Judge.

Date: September 5, 2008

s/Michael Hluchaniuk  
Michael Hluchaniuk  
United States Magistrate Judge

### **CERTIFICATE OF SERVICE**

I certify that on September 5, 2008, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system, which will send electronic notification to the following: Rick J. Patterson and Steven M. Potter. I also certify that I have mailed, by United States Postal Service, the foregoing paper to the following non-ECF participants: Daniel Horacek, # 218347, 951 Indianwood Road, Lake Orion, MI 48362.

s/James P. Peltier  
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